

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/660,155	§	Examiner:	D. J. Isabella
Confirmation No.:	4955	§	Art Unit:	3738
Filing Date:	September 11, 2003	§	Atty. Dkt. No.:	5943-00200/EBM
First Named		§		
Inventor:	Charles Gordon	§		
Title:	ARTIFICIAL FUNCTIONAL	§		
	SPINAL UNIT ASSEMBLIES	§		

<p>CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8</p> <p>DATE OF DEPOSIT: Nov. 6, 2007</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated above and is addressed to:</p> <p>Commissioner for Patents Alexandria, VA 22313-1450</p> <p><i>Ashley D Reed</i> Ashley Reed</p>

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop: ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Accompanying the Notice of Allowability mailed August 8, 2007, the Examiner included an examiner's statement of reasons for allowance. The Examiner's stated:

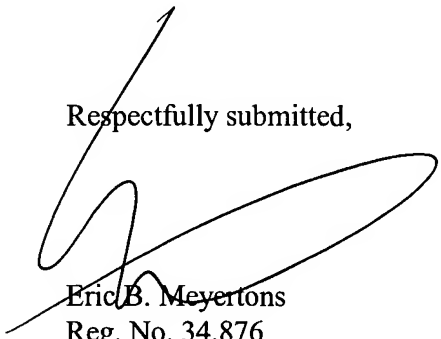
The prior art fails to disclose and/or fairly teach in combination an intervertebral implant an upper and lower bodies each defining inferior and superiour [sic] surfaces; an insert configured to be positioned between the superior surface of the lower body and the inferior surface of the upper body prior to insertion of the intervertebral implant; an expansion member configured to engage the insert; a set screw configured to be rotated to advance the expansion member to engage the insert such that the insert increases a separation distance between the upper body and the lower body after insertion of the intervertebral implant in the human spine;

and wherein by increasing the separation distance between the upper body and the lower body allows increased articulation of the implant.

Applicant respectfully submits that the combinations of features mentioned by the Examiner are not the only basis for patentability. Each independent claim is directed to a combination of features that is not taught or suggested by the prior art of record. Also, many features of the dependent claims include combinations of features that are independently patentable over the cited art.

Applicant believes that no fees are due in association with the filing of this paper. If any fees are required, please charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5943-00200/EBM.

Respectfully submitted,



Eric B. Meyertons
Reg. No. 34,876

Attorney for Applicant

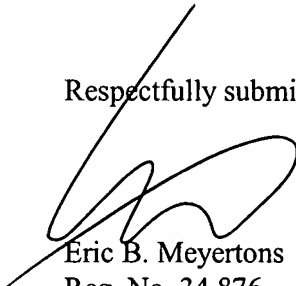
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If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5943-00200/EBM.

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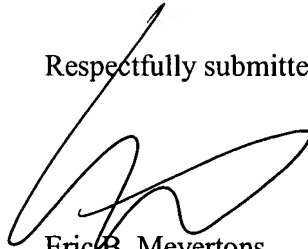
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The Commissioner is also authorized to charge any extension fee or other fees which may be necessary to the same account number.

Respectfully submitted,



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